

**UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF MASSACHUSETTS**

FILED  
CLERK'S OFFICE

2004 OCT -7 A 11:02

JAMES S. BERNAT, )  
)  
Plaintiff, )  
v. )  
)  
GENTEX OPTICS, INC., )  
)  
Defendant. )  
\_\_\_\_\_ )

C.A. NO: 04-0058-NMG

**JOINT STATEMENT OF PROPOSED PRE-TRIAL SCHEDULE**

The parties to the above action jointly file this Joint Statement of Proposed Pre-Trial Schedule pursuant to Rule 16.1(D) of the Local Rules of the United States District Court for the District of Massachusetts. In accordance with the provisions of L.R. 16.1(D), counsel have conferred concerning an agenda for matters to be discussed at the Scheduling Conference and a proposed pre-trial schedule for the case, including a plan of discovery and consideration of trial by Magistrate Judge.

**I. Discovery Plan**

A. Automatic Document Disclosure

Defendant and plaintiff have, on August 2, 2004 and August 6, 2004, respectively, made the disclosures required by Fed. R. Civ. P. 26(a)(1).

B. Discovery Cut Off

The parties expect that they will complete all discovery, including depositions, by April 15, 2005.

C. Depositions

Except as provided in paragraph D below, the Plaintiff intends to take the depositions of any individuals (not exceeding ten without the permission of the Court) identified through the course of discovery as having knowledge of any matter, not privileged, that is relevant to the

claim or defense of any party. The Plaintiff further states that, in the absence of discovery, it is too early to determine the number of depositions that will be necessary to complete discovery in this action.

The Defendant intends to take the depositions of any individuals (not exceeding ten without the permission of the Court) identified through the course of discovery as having knowledge of any matter, not privileged, that is relevant to the claim or defense of any party. The Defendant further states that, in the absence of discovery, it is too early to determine the number of depositions that will be necessary to complete discovery in this action.

The parties agree that all depositions, with the exception of expert depositions, will be conducted between October 15, 2004, and December 31, 2004.

D. Expert Discovery

The parties agree that discovery related to the identification and description of expert witnesses, in accordance with Fed. R. Civ. P. 26(a)(2), will be completed by February 15, 2005. The parties further agree to the following schedule with respect to expert witnesses:

1. Deadline for production of Plaintiff's expert reports: December 31, 2004
2. Deadline for conclusion of depositions of Plaintiff's experts: February 15, 2005
3. Deadline for production of Defendant's expert reports: February 28, 2005
4. Deadline for conclusion of depositions of Defendant's experts: April 15, 2005

E. Interrogatories

The parties agree, except upon motion allowed by the Court, that each party will submit for response no more than 25 interrogatories, as permitted under the Federal Rules of Civil Procedure.

The parties further agree that all interrogatories will be submitted by November 15, 2004.

F. Document Requests

Both parties intend to serve document requests.

The parties agree that all requests for production of documents will be submitted by November 15, 2004.

**II. Proposed Schedule for Pre-Trial Matters**

**A. Amendment to Pleadings and Joinder of Parties**

The parties agree that all amendments to the pleadings and joinder of parties will be concluded by October 30, 2004.

**B. Motions**

The parties agree that dispositive motions will be filed by April 25, 2005, and responses to dispositive motions will be filed by May 16, 2005. Reply briefs shall be filed fourteen days after the responses are filed, or May 30, 2005.

**C. Pretrial Conference / Trial**

The parties agree that a Pretrial Conference shall be held within one (1) month of the Court's decision(s) upon the Motions referenced in Section II(B) above, Court's schedule permitting.

The parties agree that a Trial shall be held within two (2) months of the Pretrial Conference, Court's schedule permitting.

**D. Discovery Disputes**

The parties agree to initially attempt to resolve all discovery disputes through informal means. If they are unable to do so, discovery motions will be filed with this Court.

**III. Trial by Magistrate**

The Plaintiff does not wish to seek trial before a Magistrate Judge, as he believes the issues presented are particularly complex and deserving of special consideration.

The Defendant is amenable to trial by Magistrate Judge.

**IV. Certification Pursuant to L.R. 16.1**

Plaintiff's counsel certifies that he has conferred with his client (a) with a view to establishing a budget for the costs of conducting the full course, and various alternative courses of the litigation; and (b) to consider the resolution of the litigation through the use of alternative dispute resolution programs, such as those outlined in L.R.16.4.

The certification of Mr. James Bernat, also required by L.R. 16.1(D)(3), will be filed separately.

The Defendant's counsel certifies that he has conferred with his client (a) with a view to establishing a budget for the costs of conducting the full course, and various alternative courses of the litigation; and (b) to consider the resolution of the litigation through the use of alternative dispute resolution programs, such as those outlined in L.R. 16.4.

The certification of the Defendant Gentex Optics, Inc., also required by L.R. 16.1(D)(3), will be filed separately.

**V. Settlement**

The parties anticipate settlement discussions in the future.

Respectfully submitted,

Plaintiff, James S. Bernat,  
By his attorneys,

Defendant, Gentex Optics, Inc.,  
By its attorneys,

 10/06/04

Thomas G. Moukawsher (ct08940)  
Ian. O. Smith (ct24135)  
Moukawsher & Walsh, LLC  
21 Oak Street, Suite 100  
Hartford, CT 06106  
(860) 278-7000

 (105)

Lawrence J. Casey, BBO# 555766  
Daniel P. McCarthy, BBO# 651559  
Perkins, Smith & Cohen, LLP  
One Beacon Street, 30th Floor  
Boston, MA 02108  
(617) 854-4000